



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0034; Notice 1]

Toyo Tire Holdings of Americas Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Toyo Tire Holdings of Americas, Inc., (Toyo) has determined that certain Open Country R/T light truck tires, do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles*. Toyo filed a noncompliance report dated March 15, 2021, and later amended it on April 2, 2021. Toyo simultaneously petitioned NHTSA on April 2, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Toyo's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview:

Toyo has determined that certain Toyo Open Country R/T light truck tires, do not fully comply with paragraph S6.5(j) of FMVSS No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles* (49 CFR 571.119). Toyo filed a noncompliance report dated March 15, 2021, and later amended it on April 2, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Toyo simultaneously petitioned NHTSA on April 2, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Toyo's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved:

Approximately 518 Toyo Open Country R/T light truck tires, size 35X12.50R20LT 125Q, manufactured between January 29, 2021, and March 8, 2021, are potentially involved.

III. Noncompliance:

Toyo explains that the noncompliance was due to a mold error in which the sidewall with the partial TIN incorrectly states the load range as required by paragraph S6.5(j) of FMVSS No. 119. Specifically, the tires were marked: LOAD RANGE E when they should have been marked: LOAD RANGE F.

IV. Rule Requirements:

Paragraph S6.5(j) of FMVSS No. 119 includes the requirements relevant to this petition. The subject tires are required to be marked on each sidewall with the letter designating the tire load range.

V. Summary of Toyo's Petition:

The following views and arguments presented in this section, "V. Summary of Toyo's Petition," are the views and arguments provided by Toyo. They have not been evaluated by the Agency and do not reflect the views of the Agency. Toyo describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety. In support of its petition, Toyo submitted the following reasoning:

During production, the plate containing the load range letter was not changed on the sidewall containing the partial TIN when production was converted from the load range "E" tire to the load range "F" tire.

Toyo stated that the affected tire mold was immediately corrected after this issue was discovered and all future production will have the correct load range letter.

For the 35X12.50R20LT tire size, Load Range E tires have a maximum load carrying capacity of 1,450 kg (3,195 lbs.) at 450 kPa (65 PSI); Load Range F tires have a maximum load carrying capacity of 1,650 kg (3,640 lbs.) at 550 kPa (80 PSI). Thus, even if a consumer were to rely on the incorrect load range designation on the non-serial sidewall, there would be no associated risk of overloading.

Toyo says that NHTSA has previously granted inconsequentiality petitions for similar FMVSS noncompliances and cited sections from the following previous petitions that NHTSA had been granted:

- Guizhou Tyre Corporation; Grant of Petition for Decision of Inconsequential Noncompliance. 78 FR 12828, February 25, 2013.
- Yokohama Tire Corporation, Grant of Petition for Decision of Inconsequential Noncompliance. 84 FR. 64403, November 21, 2019.

- Tireco, Inc., Ruling on Petition for Decision of Inconsequential Noncompliance. 81 FR 58550, August 25, 2016.

Toyo says that the subject tires meet all other performance and regulatory requirements of FMVSS No. 119. Further, Toyo also says that they have not received any complaints, claims, or warranty adjustments related to this noncompliance.

Toyo concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety as these tires have a higher load carrying capacity than the incorrect marking indicates, therefore, the marking will not cause an operator to overload the tires. Thus, Toyo believes that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment that Toyo no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Toyo notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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